

1 J. Andrew Coombs (SBN 123881)
Nicole L. Drey (SBN 250235)
2 J. Andrew Coombs, A Prof. Corp.
517 East Wilson Avenue, Suite 202
3 Glendale, California 91206
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5 andy@coombsp.com
6 nicole@coombsp.com

7 Attorneys for Plaintiff
Adobe Systems Incorporated

8
9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA – SAN JOSE DIVISION

11 Adobe Systems Incorporated,)
12)

13 Plaintiff,)

14 v.)

15 Christopher Cain, an individual and d/b/a
www.ascendancygroup.com and Does 1 – 10,
inclusive,)

16 Defendants.)

Case No. C08-02435 RMW

**REQUEST FOR ENTRY OF DEFAULT;
DECLARATION OF J. ANDREW
COOMBS IN SUPPORT**

17 Plaintiff Adobe Systems Incorporated, (“Plaintiff”) hereby requests that the Clerk of the
18 above-entitled Court enter the default in this matter against Defendant Christopher Cain, an
19 individual and d/b/a www.ascendancygroup.com (“Defendant”) on the grounds that the Defendant
20 has failed to respond to the Complaint in this action within the time proscribed by the Federal Rules
21 of Civil Procedure.

22 Plaintiff served the Summons and Complaint on Defendant on or about June 5, 2008.

23 Proof of service was previously filed with the Court on or about July 8, 2008.

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1 The above stated facts are set forth in the accompanying declaration of J. Andrew Coombs
2 filed herewith.
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4 DATED: August 4, 2008
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J. Andrew Coombs, A Professional Corp.

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By: J. Andrew Coombs

Nicole L. Drey

Attorneys for Plaintiff Adobe Systems Incorporated
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DECLARATION OF J. ANDREW COOMBS

I, J. ANDREW COOMBS, declare as follows:

1. I am an attorney at law, duly admitted to practice before the Courts of the State of California and the United States District Court for the Northern District of California. I am an attorney for Plaintiff Adobe Systems Incorporated, ("Plaintiff") in an action styled Adobe Systems Incorporated v. Christopher Cain, et al. I make this Declaration in support of Plaintiff's request that the Court Clerk enter default in this matter against Defendant Christopher Cain, an individual and d/b/a www.ascendancygroup.com. Except as otherwise expressly stated to the contrary, I have personal knowledge of the following facts and, if called as a witness, I could and would competently testify as follows:

2. I am informed and believe the Defendant was served with Summons and Complaint on or about June 5, 2008.

3. I am informed and believe that the person accepting service informed the process server that the Defendant was not a member of the United States military during the personal service of the Summons and Complaint, which occurred on or about June 5, 2008. A true and correct copy of the process server's invoice referencing the above is attached hereto as Exhibit A. Based upon this information, I am informed and believe Defendant is not currently serving in the military.

4. On or about July 8, 2008, Plaintiff filed the proof of service on Defendant with the Court.

5. On or about July 8, 2008, my office sent to Defendant a letter regarding the filing of this Request for Entry of Default. A true and correct copy of the letter is attached hereto as Exhibit B.

6. On or about July 18, 2008 Defendant contacted Plaintiff's counsel in response to the receipt of the Summons and Complaint as well as Plaintiff's letter to Defendant (see Exhibit B). The Parties thereafter discussed what was required to engage in meaningful settlement discussions.

7. On or about July 31, 2008 and after repeated attempts to engage in meaningful settlement discussions with Defendant no resolution was reached. Despite follow-up, Defendant became non-responsive to attempts to resolve matter.

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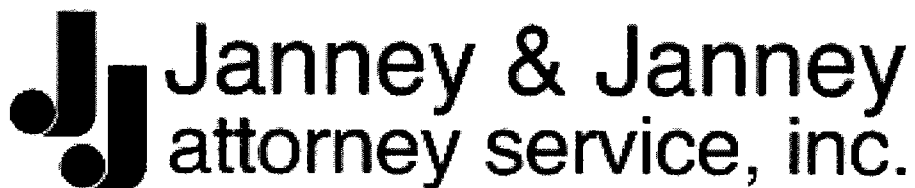
1 8. I am unaware of any response to the Complaint in this action within the time proscribed
2 by the Federal Rules of Civil Procedure, and have confirmed this on PACER on August 1, 2008. I
3 am informed and believe that there has been no response to the Complaint from Defendant.

4 I declare under penalty of perjury that the foregoing is true and correct under the laws
5 of the United States of America.

6 Executed this 4 day of August, 2008, at Glendale, California.

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9 J. ANDREW COOMBS
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**(213) 628-6338**

1545 Wilshire Blvd., 311

Los Angeles, CA 90017

www.janneyandjanney.com

IRS 95-3267524

INVOICE DATE: 06/20/2008**INVOICE NUMBER:** 1278744-1

Client No. 10713

Client J. ANDREW COOMBS

Address 517 E. WILSON ST. #202

GLENDALE, CA 91206

Phone: (818) 500-3200 Fax: (818) 500-3201

Client File No.:

Contact: JEREMY

Route#: LA-5**Server#:** 777

Case No.: C0802435JL

Court: USDC - NORTHERN DISTRICT - SAN JOSE

Plaintiff: ADOBE SYSTEMS INC.

Defendant: CAIN, ET AL.

Served: CHRISTOPHER CAIN, AN INDIVIDUAL AND D/B/A WWW.ASCENDANCYGROUP.COM

Documents:

(SEE ATTACHED); CLERK'S NOTICE OF SETTING CASE MANAGEMENT CONFERENCE

DESCRIPTION	SERVICES	CHARGES
Served: CHRISTOPHER CAIN, AN INDIVIDUAL AND D/B/A WWW.ASCENDANCYGROUP.COM at 89 DAVIS AVE, STATEN ISLAND, NY 10310. On 06/05/2008 03:06 pm SUBJECT IS NOT IN THE MILITARY.	Service of Process	135.00
INVOICE TOTAL		\$ 135.00

B

LAW OFFICES
J. ANDREW COOMBS
A PROFESSIONAL CORPORATION
517 EAST WILSON AVENUE, SUITE 202
GLENDALE, CALIFORNIA 91206-5902
TELEPHONE (818) 500-3200
FACSIMILE (818) 500-3201

July 8, 2008

Via First Class Mail

Mr. Christopher Cain, an individual and
d/b/a www.ascendancygroup.com
89 Davis Ave.
Staten Island, New York 10310

Re: Adobe Systems Incorporated v. Christopher Cain, et al.
U.S. District Court Case No.: C08-02435 RMW

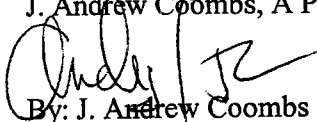
Dear Mr. Cain:

Our records indicate that you were served on or about June 5, 2008, and were required to file an Answer to the Complaint on or before July 7, 2008.

As there have been no extensions of time to respond, you are currently in technical default. Accordingly, we will request an entry of default against you on July 17, 2008, should we not receive an Answer to the Complaint or you not contact us by close of business July 16, 2008.

This letter is not a complete statement of Adobe Systems Incorporated's rights in connection with this matter, and nothing contained herein constitutes an express or implied waiver of any rights, remedies or defenses in connection with this matter, all of which are expressly reserved.

Very truly yours,
J. Andrew Coombs, A.P.C.



By: J. Andrew Coombs
Counsel for Adobe Systems Incorporated

JAC:jjc

PROOF OF SERVICE

I, the undersigned, certify and declare that I am over the age of 18 years, employed in the County of Los Angeles, and not a party to the above-entitled cause. I am employed by a member of the Bar of the United States District Court of California. My business address is 517 East Wilson Boulevard, Suite 202, Glendale, California 91206.

On August 4, 2008, I served on the interested parties in this action with the:

- **REQUEST FOR ENTRY OF DEAFULT; DECLARATION OF J. ANDREW COOMBS IN SUPPORT**

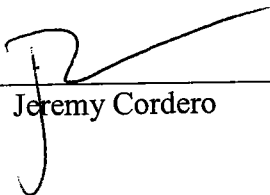
for the following civil action:

Adobe Systems Incorporated v. Christopher Cain, et al.

by placing a true copy thereof in a sealed envelope. I am readily familiar with the office's practice of collecting and processing correspondence for mailing. Under that practice it would be deposited with the United States Postal Service on the same day with postage thereon fully prepaid at Glendale, California in the ordinary course of business. I am aware that on motion of the party served, service presumed invalid if postal cancellation date or postage meter is more than one day after date of deposit for mailing in affidavit.

Christopher Cain, an individual and
d/b/a www.ascendancygroup.com
89 Davis Ave.
Staten Island, NY 10310

Place of Mailing: Glendale, California
Executed on August 4, 2008, at Glendale, California



Jeremy Cordero